

Amendment No. 1 to SB2701

McNally  
Signature of Sponsor

**AMEND Senate Bill No. 2701\***

**House Bill No. 2889**

by deleting all of the language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 67-6-396, is amended by deleting the section in its entirety and by substituting instead the following:

**67-6-396.**

(a) For purposes of this section:

(1) "Claimant" means any natural person receiving disaster assistance through the federal emergency management agency (FEMA) for repair, replacement, or construction of the person's primary residence that was damaged or destroyed as a result of a natural disaster occurring in Tennessee.

(2) "Major appliance" means any water heater, dishwasher, washer, dryer, refrigerator, freezer, stove, range, oven, cook top, microwave, vacuum, or fan that is used in the claimant's primary residence to replace an appliance that was damaged or destroyed in a natural disaster occurring in Tennessee; provided, that the sales price per item is three thousand two hundred dollars (\$3,200) or less;

(3) "Residential building supplies" means any of the following items if used in the claimant's primary residence and reasonably determined by the department to be for purposes of restoration, repair, replacement, or rebuilding due to a natural disaster occurring in Tennessee; provided, that the sales price per item is five hundred dollars (\$500) or less:

(A) Cleaning and disinfecting materials, as determined by the department;

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(B) Trash bags, boxes, construction tools, and hardware, as determined by the department;

(C) Roofing shingles, roofing paper, gutters, downspouts, vents, doors, windows, sheetrock, drywall, insulation, paint and paint materials, flooring, and other necessary building materials, as determined by the department; and

(4) "Residential furniture" means furniture commonly used in a residential dwelling, as determined by the department, that is used in the claimant's primary residence to replace furniture that was damaged or destroyed in a natural disaster occurring in Tennessee; provided, that the sales price per item is three thousand two hundred dollars (\$3,200) or less.

(b) A claimant shall be entitled to a refund equal to the total amount of Tennessee state and local sales and use tax paid by the claimant to one (1) or more retailers as a result of the claimant's purchases of major appliances, residential furniture, or residential building supplies from such retailers; provided that the total amount refunded under this section in connection with any one (1) residence shall not exceed two thousand five hundred dollars (\$2,500).

(c)

(1) To receive a refund under this section, a claimant may file only one (1) natural disaster claim for refund with the department, and shall file such claim for refund within one (1) year from the date shown on the FEMA decision letter received by the claimant.

(2) The claimant must also certify on the natural disaster claim for refund form that purchases for which the refund is claimed were to replace, repair or restore property damaged in a federally declared natural disaster occurring in Tennessee.

(3) Notwithstanding any provision of § 67-1-1802, such refund shall be made by the department directly to the claimant and shall not be made by the retailer to the claimant. All natural disaster claims for refund shall include satisfactory proof of receipt of federal disaster assistance.

(4) Each claimant shall keep and preserve suitable records of the purchases for which a refund is claimed pursuant to this section, including, but not limited to, store receipts and copies of payment documents such as checks, credit card receipts, or a sworn statement under penalty of perjury to support any purchases made using cash. Such records must be kept and preserved for a period of three (3) years from December 31 of the year in which the natural disaster claim for refund was filed. Such records shall be open to the inspection of the commissioner, or the duly authorized delegates of the commissioner, at all reasonable hours.

(5) The commissioner of revenue has the authority to conduct audits or require the filing of additional information necessary to substantiate the amount of any refund due to the claimant.

(d) The department may assess a civil penalty not to exceed twenty-five thousand dollars (\$25,000) against any person that knowingly files a false or fraudulent application for refund under this section. Any claimant that is assessed a penalty under this subsection (d) shall be entitled to the remedies provided in § 67-1-1801.

(e) All refunds under this section shall be paid from the state's general fund and nothing in this section shall be construed to reduce the amount of sales and use tax payable to local governments.

SECTION 2. This act shall take effect upon becoming a law and shall apply to any federally declared natural disaster occurring in Tennessee on or after January 1, 2012, the public welfare requiring it.